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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/002,763	11/27/2001	Mary Ann Caneba		7470

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EXAMINER.

KOVACS, ARPAD F

ART UNIT	PAPER NUMBER
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3671

DATE MAILED: 01/31/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No. 10/002,763	Applicant(s) CANEBA, MARY ANN	
	Examiner Árpád Fábíán Kovács	Art Unit 3671	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 27 November 2001.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-26 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-26 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 14) ☒ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) Paper No(s). _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449) Paper No(s) <u>1</u> . | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Drawings

1. The drawings are objected to under 37 CFR 1.83(a). The drawings must show every feature of the invention specified in the claims. Therefore, the “a lump” (cl 3, ln 4); “interlocking rings” (cl 3, ln 5) must be shown or the feature(s) canceled from the claim(s). No new matter should be entered.

A proposed drawing correction or corrected drawings are required in reply to the Office action to avoid abandonment of the application. The objection to the drawings will not be held in abeyance.

Specification

2. The title of the invention is not descriptive. A new title is required that is clearly indicative of the invention to which the claims are directed.

Claim Objections

3. Claims 12, 15, 24, 26 are objected to because of the following informalities: claim 12, in lines 4, 10, claim 15, line 4, in re “emanating” the use of the word is confusing, since it is not used in relation to mechanical parts disclosed in the application, perhaps a proper word would be “extending”; claim 24, line 21, “the said” should be – the – or – said --; claim 26, at end of lines 4, 6 a comma is needed. Appropriate correction is required.

Claim Rejections - 35 USC § 112

4. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

5. Claims 1-26 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

6. Claims 1-26 are rejected as failing to define the invention in the manner required by 35 U.S.C. 112, second paragraph.

The claim(s) are narrative in form and replete with indefinite and functional or operational language. The structure which goes to make up the device must be clearly and positively specified. The structure must be organized and correlated in such a manner as to present a complete operative device. The claim(s) must be in one sentence form only. Note the format of the claims in the patent(s) cited.

The claims are full of informalities, lack of positive antecedent basis in claims, and unclearness, as a result the claims were not treated on their merits, but as a reference the examiner provided a preliminary search.

Claims 1-3, 8, 11, 25, the "means 1", "means 2" is unclear what the numeral stand for (reference numeral should be in parenthesis), furthermore it is informal to use numerals.

Claim 1, line 7, it is unclear which distal ends is being claimed; in re "the distal ends" there is insufficient antecedent basis for this limitation in the claim. In lines 9 &

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11, in re "a functional rake" and "a rake", it is unclear if the same rake is being referred to as in line 1, or another rake is being introduced (whenever the same limitation is being recited subsequently the phrase "the" or "said" should be used). In line 10, in re "the raking mode" there is insufficient antecedent basis for this limitation in the claim. In re "the user" there is insufficient antecedent basis for this limitation in the claim. In lines 9-14, the recitation is informal/operational/indefinite, and the term "efficient", "efficiently", "less fatigue" and "easily" are relative terms which render the claim indefinite. The term "efficient", "efficiently", "less fatigue" and "easily" are not defined by the claim, the specification does not provide a standard for ascertaining the requisite degree, and one of ordinary skill in the art would not be reasonably apprised of the scope of the invention.

Claim 2, lines 2-3, in re "the proximal" there is insufficient antecedent basis for this limitation in the claim. Lines 8-9, "withdraws ... outwardly ... approach ... inwardly" are not understood.

Claim 3, line 2, in re "or similar flexible" is indefinite in that it fails to point out what is included or excluded by the claim language. This claim is an omnibus type claim. Line 5, in re "the ends" there is insufficient antecedent basis for this limitation in the claim. Lines 7 & 9 & 10, in re "a ring" & "a ... ring" & "a ring" & "a large ring" is confusing, there was already some rings recited in line 5 used with the handle. Line 8, in re "both rings joined together" which rings, and how is it different than the interlocking rings in line 5? Similarly to line 10, it is unclear how the recitation is distinguishable from line 5 or lines 7-8. Lines 11-12, the recitation is informal/operational/indefinite,

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and the term "readily available" & "inexpensive" & "easily repairable" & "replaceable by an ordinary consumer" are relative terms which render the claim indefinite. The term "readily available" & "inexpensive" & "easily repairable" & "replaceable by an ordinary consumer" are not defined by the claim, the specification does not provide a standard for ascertaining the requisite degree, and one of ordinary skill in the art would not be reasonably apprised of the scope of the invention.

Claim 4, line 11, the recitation is informal/operational/indefinite, and the term "comfortably" is a relative term which render the claim indefinite. The term "comfortably" is not defined by the claim, the specification does not provide a standard for ascertaining the requisite degree, and one of ordinary skill in the art would not be reasonably apprised of the scope of the invention.

Claim 5, line 3, in re "**some** means" is vague & unclear what it refers to. The functional recitation "one picking rake ..." is not understood, and there was only one picking rake already recited in claim 1, line 1; it is unclear if the application has more than one picking rake.

Claim 6, line 2, in re "**some** means" is vague & unclear what it refers to.

Claim 5-6, line 1, in re "at least one rake handle" is unclear whether a different rake handle is being introduced than the ones already recited, such as the first and second.

Claim 8, line 2, in re "the upper end" there is insufficient antecedent basis for this limitation in the claim.

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Claim 9, lines 4-5, the recitation is informal/operational/indefinite, and the term "capacity" & "stability" are relative terms which render the claim indefinite. The term "capacity" & "stability" are not defined by the claim, the specification does not provide a standard for ascertaining the requisite degree, and one of ordinary skill in the art would not be reasonably apprised of the scope of the invention. In re "further anchoring options" is indefinite in that it fails to point out what is included or excluded by the claim language. This claim is an omnibus type claim.

Claim 10, line 2, in re "the overlapping **section**" there is insufficient antecedent basis for this limitation in the claim. Lines 6-7, the recitation is informal/operational/indefinite, and the term "further stabilizes" & "secures" are relative terms which render the claim indefinite. The term "further stabilizes" & "secures" are not defined by the claim, the specification does not provide a standard for ascertaining the requisite degree, and one of ordinary skill in the art would not be reasonably apprised of the scope of the invention.

Claim 11, line 2, in re "at least one selected" is not understood. Line 10, in re "above means" is unclear what it refers to. Lines 10-11, the recitation is informal/operational/indefinite, and the term "quick" & "easy" & "stably" are relative terms which render the claim indefinite. The term "quick" & "easy" & "stably" are not defined by the claim, the specification does not provide a standard for ascertaining the requisite degree, and one of ordinary skill in the art would not be reasonably apprised of the scope of the invention.

Claim 12, lines 6, 8-9, 15-16, 19-20, the recitation is informal/operational/indefinite, and the term "arranged" & "designed" & "standard commercial" & "appropriate ... does not need to bend ..." & "easily fasten ... little effort" are relative terms which render the claim indefinite. The term "arranged" & "designed" & "standard commercial" & "appropriate ... does not need to bend ..." & "easily fasten ... little effort" are not defined by the claim, the specification does not provide a standard for ascertaining the requisite degree, and one of ordinary skill in the art would not be reasonably apprised of the scope of the invention.

Claim 13, lines 1-3, in re "the portion" & "the top" & "the proximal end" & "the remaining lower section" there is/are insufficient antecedent basis for this/these limitation(s) in the claim. Line 4, in re "some means" is unclear what it refers to. Lines 5-6, the recitation is informal/operational/indefinite, and the term(s) "as needed" & "a more compact" & "comfortable" is/are relative term(s) which render the claim indefinite. The term(s) "as needed" & "a more compact" & "comfortable" is/are not defined by the claim, the specification does not provide a standard for ascertaining the requisite degree, and one of ordinary skill in the art would not be reasonably apprised of the scope of the invention.

Claim 14, line 3, in re "the portion" there is/are insufficient antecedent basis for this/these limitation(s) in the claim. Lines 2-3, in re "first rake handle is also an integral ... second rake head" is unclear. Lines 5-6, the recitation is informal/operational/indefinite, and the term(s) "molding ... easy to fabricate and assemble" is/are relative term(s) which render the claim indefinite. The term(s) "molding

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... easy to fabricate and assemble” is/are not defined by the claim, the specification does not provide a standard for ascertaining the requisite degree, and one of ordinary skill in the art would not be reasonably apprised of the scope of the invention.

Claim 15, in re “The handle” there is/are insufficient antecedent basis for this/these limitation(s) in the claim. Lines 6-11, the recitation is informal/operational/indefinite, and the term(s) “designed ... sufficient length ... ordinary commercially available ... a great picker” is/are relative term(s) which render the claim indefinite. The term(s) “ designed ... sufficient length ... ordinary commercially available ... a great picker” is/are not defined by the claim, the specification does not provide a standard for ascertaining the requisite degree, and one of ordinary skill in the art would not be reasonably apprised of the scope of the invention.

Claim 16, line 2, in re “some means” is unclear what it refers to. Lines 2-3, the recitation is informal/operational/indefinite, and the term(s) “some means ... can meet ... tall, medium ...” is/are relative term(s) which render the claim indefinite. The term(s) “some means ... can meet ... tall, medium ...” is/are not defined by the claim, the specification does not provide a standard for ascertaining the requisite degree, and one of ordinary skill in the art would not be reasonably apprised of the scope of the invention.

Claim 17, last paragraph the recitation is informal/operational/indefinite, and the term(s) “approximates ... normally do .. more efficiently” is/are relative term(s) which render the claim indefinite. The term(s) “ approximates ... normally do .. more efficiently” is/are not defined by the claim, the specification does not provide a standard

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for ascertaining the requisite degree, and one of ordinary skill in the art would not be reasonably apprised of the scope of the invention.

Claim 18, line 2, the recitation is informal/operational/indefinite, and the term(s) "comfortably" is/are relative term(s) which render the claim indefinite. The term(s) "comfortably" is/are not defined by the claim, the specification does not provide a standard for ascertaining the requisite degree, and one of ordinary skill in the art would not be reasonably apprised of the scope of the invention.

Claim 21, lines 1-10, the recitation is informal/operational/indefinite, and the term(s) "retracted without coming apart" & "desired final ..." is/are relative term(s) which render the claim indefinite. The term(s) "" is/are not defined by the claim, the specification does not provide a standard for ascertaining the requisite degree, and one of ordinary skill in the art would not be reasonably apprised of the scope of the invention. In re "limited length" is indefinite in that it fails to point out what is included or excluded by the claim language. This claim is an omnibus type claim. In re "the inner tubes" & "the adjusted set" & "the smallest tube" there is/are insufficient antecedent basis for this/these limitation(s) in the claim. Lines 7-8, in re "(b)" & "©" (copyright symbol) is unclear what elements it refers to, for example it could be a mistype for a previous claim or an attempt to refer to a reference number (the reference numbers should always be in parenthesis, but it cannot be relied on as a patentable subject matter), otherwise the element being referred to should be recited. Depending on how the applicant will clarify or amend this claim, this claim can be a candidate for restriction requirement.

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Line 7, in re "the upper end" there is/are insufficient antecedent basis for this/these limitation(s) in the claim.

Claim 22, line 2, in re "the longitudinal center" there is/are insufficient antecedent basis for this/these limitation(s) in the claim. In the last line, in re "as needed" is indefinite in that it fails to point out what is included or excluded by the claim language. This claim is an omnibus type claim.

Claim 23, lines 2-3, in re "the longitudinal center" & "the second smallest ... tubes" there is/are insufficient antecedent basis for this/these limitation(s) in the claim. Lines 4-5, in view lines 2-3, it is confusing. Lines 6-7, 9-10, it is unclear which apertures and for which tubes are referred to. In the last line, in re "as needed" is indefinite in that it fails to point out what is included or excluded by the claim language. This claim is an omnibus type claim.

Claim 24, lines 6, 11-12, 17-19, 25, in re "the lower ends" & "the inner diameter" & "the second smallest tube" & "the smallest tube" & "the other end" & "said first flexible member" & "said third smallest tube" there is/are insufficient antecedent basis for this/these limitation(s) in the claim. Line 17, in view of the flexible cord-like member recited in line 14, "a first the flexible cord-like member" is confusing. Line 25, in re "and so forth" is indefinite in that it fails to point out what is included or excluded by the claim language. This claim is an omnibus type claim. Lines 26-27, the recitation is informal/operational/indefinite, and the term(s) "the above means ... other means ... require tooling ... today" is/are relative term(s) which render the claim indefinite. The term(s) "the above means ... other means ... require tooling ... today" is/are not

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defined by the claim, the specification does not provide a standard for ascertaining the requisite degree, and one of ordinary skill in the art would not be reasonably apprised of the scope of the invention.

Claim 26, lines 3-4, in re "suitable even for persons with limited grasping abilities" is indefinite in that it fails to point out what is included or excluded by the claim language. This claim is an omnibus type claim. Line 5, in re "another member" in view "another member" recited in line 2, the recitation is confusing.

The claim(s) are narrative in form and replete with indefinite and functional or operational language. The structure which goes to make up the device must be clearly and positively specified. The structure must be organized and correlated in such a manner as to present a complete operative device. The claim(s) must be in one sentence form only. Note the format of the claims in the patent(s) cited. Upon proper amendment to the claims the following issues will be considered: a search will be conducted in view of the subject matter claimed, a determination will be conducted as to the number of inventions being claimed, including apparatus claims and method claims for possible restriction requirement.

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Conclusion

7. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Hsu (919), Blessing, Hoffman, Mencarelli et al., Waldschmidt, Callis, Lawrence, Spencer, Jenkins, Frank, Hinden.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Árpád Fábián Kovács whose telephone number is 703 308 5897. The examiner can normally be reached on Mo-Th.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Thomas B. Will can be reached on 703 308 3870. The fax phone numbers for the organization where this application or proceeding is assigned are 703 305 7687 for regular communications and 703 308 8623 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703 308 1113.



Árpád Fábián Kovács
Examiner
Art Unit 3671

ÁFK
January 26, 2003